

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

NO. CR-05-2125-RHW

V.

LORENZO AYALA-FAVELA,

Defendant.

ORDER DENYING MOTION FOR RECONSIDERATION

Before the Court are Defendant's Motion to Reconsider Court's Denial of Parties Request to Waive Presentence Investigation Report and Request to Proceed Directly to Sentencing (Ct. Rec. 39), and Defendant's Motion to Expedite Hearing (Ct. Rec. 42). The motions were heard without oral argument.

Defendant asks that the Court reconsider its denial of the parties' request to waive the Presentence Investigation Report. The Court ordered the Presentence Investigation Report, in part, because the United States Probation Office recommended that a report be compiled, and also because the Presentence Investigation Report is necessary to allow the Court to apply the factors of 18 U.S.C. § 3553(b) in fashioning a reasonable sentence. The U.S. Probation Office's concession that the Base Offense Level is 20 does not alter the need for the Presentence Investigation Report, since the Guideline calculations are only one factor the Court must consider in determining a reasonable sentence.

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1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Defendant's Motion to Reconsider Court's Denial of Parties Request to
3 Waive Presentence Investigation Report and Request to Proceed Directly to
4 Sentencing (Ct. Rec. 39) is **DENIED**.

5 2. Defendant's Expedited Hearing Request (Ct. Rec. 42) is **GRANTED**.

6 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
7 Order and forward copies to counsel.

8 **DATED** this 26th day of June 2006.

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10 *s/ Robert H. Whaley*

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12 ROBERT H. WHALEY
13 Chief United States District Court

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